

### C. Overall Escalation Rate

Intervenors argue about the overall cost escalation rate that the Commission should use for purposes of evaluating the benefits of ComEd's proposal, but they do not point to any evidence that conflicts with the following explanations of the basis for each of the rates under discussion:

- **The 7.81% rate.** This is the actual overall escalation rate determined using the formula weightings proposed by ComEd and Staff in Docket 99-0115, which were premised upon the inclusion of non-radiological decommissioning costs, and using the actual 22.4% low level waste burial cost escalation rate. ComEd Ex. 8 (Berdelle Rebuttal) at 6.
- **The 4.73% rate.** This is the "capped" overall escalation rate determined using the formula weightings proposed by ComEd and Staff in Docket 99-0115, which were premised upon the inclusion of non-radiological decommissioning costs, and using Staff's proposed 10% low level waste burial cost escalation rate. ComEd Cross Ex. 20; Berdelle, Tr. 1138-1139; Riley, Tr. 511-512; Speck, Tr. 368.
- **The 4.95% rate.** This is the "capped" overall escalation rate determined using the formula weightings proposed by ComEd and Staff in Docket 99-0115, which have been adjusted to exclude non-radiological decommissioning costs, and using Staff's proposed 10% low level waste burial cost escalation rate.
- **The 4.11% rate.** As Hearing Examiner Hilliard correctly noted, this is nothing but a "pull out number", Tr. 534, derived by working backward from the \$120.9333 million six-year annual contribution amount used in ComEd's proposal. It does not result from a calculation based on actual escalation rates for the components used in the Commission's escalation formula. It is not a rate that any witness could justify by use of the Commission's cost escalation formula and no witness attempted any such justification. It is not a rate that ComEd believes will be experienced or can be supported by any evidence in this proceeding. ComEd Ex. 8 (Berdelle Rebuttal) at 6-7.

The Commission could analyze ComEd's proposal using any of these rates<sup>8</sup> and the proposal would still be just and reasonable. Use of the actual 7.81% escalation rate shows that

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<sup>8</sup> It is noteworthy that the Attorney General's Initial Brief makes no mention of the 3.7% overall cost escalation rate that the calculations of its witness, Mr. Effron, attempted to support.

ratepayers will pay about \$880 million less in each of the six years during which \$120.9333 million contributions are being made than they would have to pay during those six years to fund the actual costs of decommissioning presently estimated by TLG. ComEd Ex. 8 (Berdelle Rebuttal) at 8-9. Use of the 4.73% or the 4.95% rates shows that customers will also pay less than would otherwise be necessary to fund the present TLG-estimated costs of decommissioning in six years. The savings aggregate roughly \$1 billion in amounts that would ordinarily be paid in years 2007 thorough 2027, which, as Intervenor note, is expressed in nominal dollars and could also be described on a discounted basis. Given that it is a number derived by working backward from the six-year, \$120.9333 million proposal, use of the 4.11% rate, by definition, results in the conclusion that ratepayers will pay the amount of the TLG-estimated costs, but no more.<sup>9</sup>

In addition to these conclusions about the merit of ComEd's proposal using any of the overall escalation rates discussed in the testimony, the fixed, six-year, \$120.9333 million rate has another very important benefit. The savings to ratepayers determined by evaluating the proposal using each of these escalation rates assumes that there are no additional increases in the costs of decommissioning. The entire history of decommissioning costs indicates that no such

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No other witness presented any calculation of an overall cost escalation rate. As indicated in ComEd's Initial Brief, in arriving at his 3.7% rate, Mr. Effron (1) used the wrong cost escalation formula, and (2) miscalculated the rate of increase in waste burial costs, including South Carolina taxes, both in violation of the Commission's rulings in Docket 97-0110. Effron, Tr. 928-937.

<sup>9</sup> As ComEd explained in its Initial Brief, use of a 4.11% overall cost escalation rate to measure whether ComEd's proposal is just and reasonable would not be appropriate because it would rely on circular reasoning. It involves taking an escalation rate that was "backed into" based on the six-year, proposed \$120.9333 million proposal and then using that rate to test the proposal itself.

assumption is warranted. ComEd Ex. 13 (Berdelle Addendum to Rebuttal) at 6-7, Docket No. 99-0115. Increased costs are very likely as a result of uncertainty over such critical matters as the availability of low level radioactive waste disposal, unreimbursed spent fuel storage costs, expanded decommissioning work scope, more rapid rates of general inflation and poorer-than-expected investment performance. ComEd's proposal protects ratepayers from all of these risks.

Although ComEd's proposal is just and reasonable regardless of the escalation rate that is used to evaluate it, as ComEd stated in its Initial brief, the appropriate basis for comparison is the actual 7.81% overall cost escalation rate. Use of the 7.81% rate is appropriate because the reason for inquiring about the rate of increase in future decommissioning costs in this case is to assess the advantages of ComEd's proposal for ratepayers. Use of such a rate does not increase the amount that customers will be required to pay for six years. ComEd has already fixed that rate in arriving at its proposal. The question now is whether ComEd's proposal provides significant protection for ratepayers from higher decommissioning costs that they would otherwise have to pay. For that purpose, the Commission should use the best evidence of the actual cost escalation rate and that evidence supports the 7.81% rate. ComEd Ex. 8 (Berdelle Rebuttal) at 4; Speck, Tr. 369-70; Berdelle, Tr. 1124-1125; Riley, Tr. 513.

#### **IV. Earnings Rate On Decommissioning Trust Funds**

ComEd's Initial Brief indicated that, in Docket 99-0238, the Commission approved a 65% limitation on equity investments in the decommissioning trusts, which resulted in after-tax trust fund earnings rates for the nontax-qualified trusts of 6.83% and for the tax-qualified trusts of 7.49%. Staff agrees with the use of the 7.49% tax-qualified trust fund earnings rate. Staff Initial Brief at 7. Most of the Intervenors have accepted the Commission's approved trust fund earnings rates and, for purposes of calculations they have performed, have used an overall after-

tax trust fund earnings rate of 7.3%. Only City/CUB witness Biewald proposed use of a higher rate of 8.11%, City/CUB Initial Brief at 42-43, but that rate has not been approved by the Commission and should not be used for purposes of evaluating ComEd's proposal in this case.

**V. Power Uprate/License Renewal/Life Extension**

In its initial brief, ComEd showed persuasively why the Commission cannot and should not presume that ComEd's nuclear stations will operate beyond the end of their current licenses that have been issued by the NRC. Staff and Intervenors criticize ComEd's position and instead urge the Commission to presume that there will be license renewals and life extensions which will lead to substantial reductions in decommissioning costs. See, e.g., Staff Initial Brief at 8. This argument requires the Commission to make at least three levels of speculative assumptions: first, to assume that the NRC will grant license renewals for ComEd's units; second, to assume that such units would then be economical to operate for a period of up to twenty additional years; and, third, to assume that such license renewal and life extension would inevitably lead to reductions in the amounts needed for decommissioning work at the present time by allowing increased earnings to accumulate in the decommissioning trusts in excess of the projected increase in decommissioning cost. The evidence in the record does not support these assumptions and Staff's and Intervenors' arguments must be rejected.

Intervenors ask the Commission to assume that ComEd's units will both receive license renewal and continue to operate through a renewed license period based

See, e.g., IIEC Initial

Brief at 18-20.<sup>10</sup> However, as Staff acknowledges in its brief,

Staff Initial Brief at 8. CUB witness

Schlissel also admitted that one could not be sure if the Company will even apply. Schlissel, Tr. 608.

Certain Intervenors note that ComEd has prepared

Attorney General Initial Brief at 7;

County Initial Brief at 25.

IIEC Initial Brief at 18-20.

Intervenors' arguments mischaracterize this study.

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<sup>10</sup> IIEC cites the case of Beery v. Breed, 311 Ill. App. 469, 36 N.E.2d 591 (2d Dist. 1941) to claim that the Commission should draw an adverse inference against ComEd on this issue because the Company presented two, rather than three, of its many vice presidents as witnesses. IIEC Initial Brief at 19. The Beery case does not support IIEC's claim. Beery was a damages case arising from a 1938 car crash, and did not involve drawing adverse inferences at all. After the plaintiff presented a prima facie case, the defendant called no witnesses. The appellate court ruled that where a plaintiff made a prima facie case, the defendant's failure to present any witnesses was a proper subject of comment in argument to the jury. Beery, 311 Ill. App. at 478. Unlike Beery, where the defendant motorist called no witnesses, in this case ComEd presented many witnesses, including two of its vice presidents, to support its petition. Beery does not impose an obligation for ComEd to call a third vice president or any other witness to avoid an "adverse inference" as claimed by IIEC. Moreover, it makes sense that there is no such law, or in every case involving a corporate party it would be claimed that not calling some additional witness warranted an adverse inference against the party. Kelley v. American Motors Corp., 130 Ill. App. 3d 662, 676, 474 N.E.2d 814, 824 (5<sup>th</sup> Dist. 1985) (Trial court erred by giving adverse inference instruction because "[u]nder the plaintiff's approach the defendant would have to parade before the jury all of its employees who are knowledgeable about these matters in order to forestall the giving of this instruction.") Accordingly, IIEC's claim lacks merit and should be rejected.

These concerns include the full array of potential problems which were outlined by Mr. Callan and Mr. Speck in their testimony. Thus, the study is not an advocacy piece for license renewal, as certain Intervenors suggest, but is, instead, as CUB witness Schlissel admits, a balanced document that presents both the pros and cons of seeking license renewal. Schlissel, Tr. 666. An examination of the study also belies CUB's utterly spurious claim that there are "startling contradictions" between ComEd's testimony to the Commission, and the information given to its Board. City/CUB Initial Brief at 29.

Significantly, the majority of Intervenors' arguments focus only on whether ComEd will seek renewal and from this make the illogical conclusion that, if ComEd applies, the NRC will grant renewal. But no evidence in the record justifies this assumption. Mr. Callan's testimony is unrebutted that the application process is a "very preliminary step" and is "a long way from establishing with certainty that the applications will be approved." Callan, Tr. 803. Mr. Callan explained that license renewal at the NRC is a "lengthy, costly and arduous process" in which the NRC focuses on a number of complex technical and operational issues. ComEd Ex. 9 (Callan Rebuttal) at 5-6.

For instance, Mr. Callan described the experience of Yankee Atomic, which was forced to abandon its application for its Yankee Rowe nuclear plant after structural integrity problems in the reactor pressure vessel were identified during the NRC's review process. ComEd Ex. 9 (Callan Rebuttal) at 7-8. Similarly, he described how the renewal application for Northern States

Power's Monticello plant was abandoned following the discovery of some technical issues that would have been too expensive to resolve. Callan, Tr. 866-67.

The Attorney General claims that Mr. Callan conceded the NRC is making the license renewal process less uncertain and unpredictable, Attorney General Initial Brief at 15-17, but this mischaracterizes Mr. Callan's testimony. Mr. Callan explained that the NRC's improvements pertain only to its regulatory process and not to the technical issues on which the NRC judges applications. Callan, Tr. 798. These remain a "moving target" which cannot be predicted and which do not lend themselves to easy resolution. Callan, Tr. 815.

For these reasons, Mr. Callan concluded that it would be inappropriate for the Commission to assume in its planning that any license renewal application submitted by ComEd would be favorably decided on by the NRC. Callan, Tr. 808. He described how his experience as the Executive Director of Operations at the NRC caused him to be "very cautious about making any long-range predictions about license extension, license renewal, decommissioning." Callan, Tr. 847.

CUB witness Biewald agreed that technical issues could affect the possibility of license renewal. He acknowledged that, in an article he co-authored, he stated that "rates of aging degradation and their safety implications are not well known at present" and that "those plants most affected by aging degradation would be less inclined to initiate the license renewal process." Biewald, Tr. 1410-1411. Mr. Biewald admitted he did not study the way aging degradation might or might not exist at any of ComEd's plants at issue. Biewald, Tr. 1415.

Staff and Intervenor cannot dispute that the possibility of license renewal is especially uncertain for ComEd's Dresden and Quad Cities units. They stress that two plants have received license extension. See, e.g., Staff Initial Brief at 8. But these plants are pressurized water

reactors. They are not of the same design, vintage or manufacture as the Dresden or Quad Cities units, which are boiling water reactors. Schlissel, Tr. 603-605. As Mr. Callan testified, BWRs “bring with them a suite of technical issues” which “have not been scrutinized.” Callan, Tr. 868. Mr. Callan noted that an application to extend the license for these stations would be subject therefore to careful NRC Staff scrutiny, possible intervention, and possible hearings before the NRC’s Atomic Safety Licensing Board. ComEd Ex. 9 (Callan Rebuttal) at 4-5. To date, there has not been a hearing on an application for license extension. Callan, Tr. 816-17.

These factors underscore Mr. Callan’s conclusion that it would be “fundamentally unreasonable and inappropriate” for a state economic regulator to make policy on an issue as important as decommissioning funding based upon a presumption of what the NRC, the federal nuclear safety regulator, may or may not do respecting license renewal many years in the future. ComEd Ex. 9 (Callan Rebuttal) at 9-10.

Intervenors quote out of context Mr. Callan’s statement that renewal is a “reality in the industry.” Attorney General Initial Brief at 19, citing Callan, Tr. at 799. They ignore that Mr. Callan also noted that early termination of a nuclear plant license is a countervailing reality. Callan, Tr. 809-10. For this reason, Mr. Callan encouraged the Commission to approach both of these possibilities “in a balanced fashion,” being aware of the “mixed history” of the last decade, which saw both license renewal and early decommissioning. Callan, Tr. 809-810.

Mr. Callan explained how, even if the NRC renews licenses for ComEd’s operating units, a number of factors may prevent them from operating beyond their original licensed lives. Mr. Speck also described a series of contingencies which could result in the shutdown of plants before the end of their operating lives. ComEd Ex. 12 (Speck Rebuttal) at 38-39. Staff and Intervenors cannot show otherwise. Indeed, CUB witness Mr. Schlissel admitted that 11 units



have closed before the end of their licensed lives since 1989, many more than have applied for and received license renewals. Schlissel, Tr. 626-28. No unit has yet to operate beyond the end of its original license term. ComEd Ex. 9 (Callan Rebuttal) at 4; ComEd Ex. 12 (Speck Rebuttal) at 39.

Nor should the possibility of power uprates at ComEd's older nuclear stations give rise to any reduction in the future costs of decommissioning. Mr. Callan testified that power uprate plans have nothing to do with whether a licensee will operate the stations beyond the end of its current license. ComEd Ex. 9 (Callan Rebuttal) at 12-13. In addition, Mr. Schlissel admitted that any power uprates at Dresden Station would pay for themselves before the end of the existing license lives of the units. Schlissel, Tr. 628-29.

Significantly, Staff and Intervenors admit that license renewal itself does not decrease the present value costs to decommission a plant. Staff Initial Brief at 7; Cook County Initial Brief at 23-24. Rather, there can only be a reduction in revenue requirements if the return on trust assets exceeds the rate of escalation in decommissioning costs. Staff Initial Brief at 7; Cook County Initial Brief at 23-24. Thus, if the rate of cost escalation is greater, license renewal would not result in savings but would instead lead to substantial increases in the costs of decommissioning and, therefore, to severe underfunding of the decommissioning trusts. While Staff and Intervenors urge the Commission to presume the return on trust assets will exceed the long term escalation rate, the evidence to date shows the opposite -- that decommissioning costs have increased at a higher rate than investment earnings. ComEd Ex. 7 (Speck Supp. Direct) at 7, citing Berdelle Direct Testimony, ICC Docket 99-0115, at 10-11, 16-17.

Finally, Staff claims in error that "another license extension issue" is the NRC's granting of an application by ComEd to purportedly "extend the license of ComEd's Dresden 2 unit

reactor for 47 months.” Staff Initial Brief at 8-9. Staff attaches a ComEd press release on this issue to its brief as a new exhibit but does not include the underlying NRC materials which are the subject of this release.

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construction recapture is simply an amendment to a plant’s current operating license to extend the termination date of the plant’s operation to permit that plant to operate for the full 40 years permitted by law for a license. The construction recapture here has nothing to do with license renewal or life extension, and gives ComEd no right to operate Dresden 2 beyond the maximum statutory license period. The procedure for construction recapture is governed by an entirely different regulatory framework than is the license renewal process. Compare 10 C.F.R. 50.56 and 50.57 (specifying the procedure for construction recapture) with 10 C.F.R. part 54 (specifying the procedure for license renewal). Indeed, the IIEC agrees that a construction recapture is different from a license extension. IIEC Initial Brief at 16 n.4. If ComEd wishes to extend the life of Dresden beyond its initial 40 year period, it would still need to follow the process outlined by Mr. Callan.<sup>11</sup>

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<sup>11</sup> While Staff claims that this license amendment warrants a “cost of service analysis to determine the true impact of this adjustment”, Staff Initial Brief at 7, on the decommissioning revenue requirement, this should be rejected. Staff has agreed that the TLG estimates are a good basis for estimating the costs of decommissioning. Id. at 4. Mr. LaGuardia testified that while the estimates remain reasonable, if the estimates were to be re-done, changes would need to be made such as evaluating secondary side contamination for Byron and Braidwood. ComEd Ex. 1 (LaGuardia Direct) at 8. The same would be true to reflect construction recapture. While the costs of secondary side radiological decommissioning increased the estimated costs of Zion decommissioning by about \$59 million, no such costs for Byron or Braidwood are reflected in the present estimates. Staff’s proposal to selectively make a reduction reflecting the Dresden construction recapture represents an inappropriate change in only one assumption tending to reduce estimated costs, while ignoring the much larger increases in the cost estimates likely to occur if other updates were made to the estimates.

Accordingly, the Commission should reject Staff and Intervenors' claims that the Commission should assume that station licenses will be renewed, that stations will be operated for the entire duration of any renewal term, and that such license renewal or life extension would reduce decommissioning costs.

## **VI. Method Of Decommissioning**

As ComEd explained in its Initial Brief, its decommissioning cost estimates assume that the "DECON" decommissioning method will be followed. Pursuant to this method, decommissioning work will begin immediately after station shutdown. ComEd Initial Brief at 26 - 28.

Staff agrees with ComEd's approach. It noted in its Initial Brief that the "Commission has traditionally adopted immediate dismantlement as the basis for estimating decommissioning costs" for both ComEd and other utilities. It also stated that there was "no reason" why this approach should not continue to apply in this case. Staff Initial Brief at 10.

Several of the Intervenors continue to argue that ComEd will realize substantial decommissioning cost savings if it follows a delayed decommissioning approach whereby decommissioning work would be delayed for a substantial period after station retirement. Attorney General Initial Brief, at 20 – 21; City/CUB Initial Brief, at 47 – 50; IIEC Initial Brief, at 21–23. As discussed in ComEd's Initial Brief, Mr. LaGuardia testified that this contention was simply wrong. He explained that the Intervenors had totally ignored the substantial costs associated with delayed decommissioning that are caused by the need to maintain station equipment and structures after station shutdown and before decommissioning work begins. ComEd Ex. 10 (LaGuardia Rebuttal) at 3. He also explained that as a general matter, delayed decommissioning was not advisable because of the risk of substantially increased costs relating

to low level radioactive waste disposal and increasingly stringent regulatory requirements. ComEd Ex. 10 (LaGuardia Rebuttal) at 4. Because of these factors, Mr. LaGuardia concluded that the “costs associated with the delayed decommissioning approach . . . could easily be greater than the amount of any additional [trust fund] interest that [would] accrue[] during the delayed decommissioning period.” ComEd Ex. 10 (LaGuardia Rebuttal) at 2. Simply put, in Mr. LaGuardia’s opinion, the delayed decommissioning approach advocated by the Intervenors would end up increasing (and not decreasing) decommissioning costs.

Several of the Intervenors argue that ComEd is likely to engage in delayed decommissioning because it had undertaken this approach at Zion Station and at Dresden Station Unit One. Attorney General Initial Brief, at 20 - 21; City/CUB Initial Brief, at 49. However, SAFSTOR was employed at Dresden Unit One because it was a retired station located between two units – Dresden Units Two and Three – that continued operation. This unique circumstance does not exist at ComEd’s other nuclear stations. LaGuardia, Tr. 497. Similarly, the sequence of decommissioning work at Zion Station was caused by the need to maintain synchronous condensor equipment at the Station to enhance the reliability of the transmission system, and by the need to maintain a spent fuel pool at the Station. LaGuardia, Tr. 498-99. Mr. LaGuardia testified that he did not believe that these specific circumstances would exist when ComEd’s remaining nuclear stations were retired. LaGuardia, Tr. 498 – 500. Simply put, the decommissioning work at Dresden Unit One and at Zion Station was based on unique, site specific circumstances, and does not indicate that ComEd will adopt the delayed decommissioning approach at other stations as the Intervenors contend.

Several of the Intervenors also point to the fact that delayed decommissioning has been previously undertaken by other utilities in support of their claim that ComEd is likely to use this

decommissioning method. IIEC Initial Brief at 21-23; City/CUB Initial Brief at 49. Mr. LaGuardia recognized that some utilities had chosen delayed decommissioning, but also added that a larger number of utilities have chosen immediate decommissioning. He also testified that “the general trend in the nuclear industry is away from delayed decommissioning” because of the general concern over low level waste storage cost escalation. ComEd Ex. 10 (LaGuardia Rebuttal) at 4.

Finally, the City and CUB continue to claim that ComEd is “setting itself up to receive a windfall” by basing its decommissioning cost estimates on the assumption that immediate decommissioning will be performed, while ultimately planning to follow the delayed decommissioning approach. City/CUB Initial Brief at 48. This claim is simply incorrect. As stated above, ComEd has committed to refund any excess amounts that remain in the decommissioning trusts after the completion of decommissioning work to its ratepayers. ComEd Ex. 8 (Berdelle Rebuttal) at 16-17. The “windfall” that the City and CUB claim will not exist.

In sum, Staff has correctly observed that the Commission has traditionally calculated decommissioning costs based on the finding that immediate decommissioning will be performed. The continued use of this approach is warranted here. The Intervenor’s contentions regarding purported cost savings related to delayed decommissioning should be rejected.

## **VII. Contingency Factors**

As discussed in ComEd’s Initial Brief, the Commission specifically approved of the use of contingency factors in ComEd’s decommissioning cost studies in ComEd’s 1997 Rider 31 case. ComEd Initial Brief at 29. There, the Commission found:

[W]e are of the opinion that Mr. LaGuardia properly applied activity-by-activity contingency allowances which properly reflect unpredictable field problems which may arise. The Commission is satisfied that his past experience with decommissioning projects indicates that problems will

occur to cause the decommissioning contractor to deviate from the optimal performance of the decommissioning tasks which is assumed in the cost estimate . . . . We also would note that elimination of the contingency factor may violate the NRC minimum funding requirement.

Order, ICC Docket No. 97-0110 (Feb. 19, 1998) at 9.

In this docket, the Commission Staff continues to support the inclusion of contingency factors in ComEd's cost estimates. Staff Initial Brief at 10 - 11. Citing the Commission's Order in ComEd's 1997 Rider 31 case, the Staff states in its Initial Brief that the same factors that caused the Commission to approve the use of contingency factors in ComEd's cost studies would also apply to the GENCO after the transfer of the stations. The Staff therefore concluded that it "supports the inclusion of contingency [amounts] in the site specific cost estimates" at issue in this case. Staff Initial Brief at 11.

Only Cook County and the Attorney General oppose the use of contingency factors in this matter. Cook County argues that contingency factor amounts should not be recovered because there will no longer be annual Rider 31 proceedings if ComEd's proposal advanced here is adopted. Cook County Initial Brief at 23. Cook County contends that these proceedings provided an annual "fine tuning process" whereby excess amounts could be refunded to ratepayers, and that in the absence of this process, the collection of "unspecified" contingency factor amounts for presently unidentified work is no longer appropriate. Id.

Simply put, Cook County's concerns are baseless. As an initial matter, Mr. LaGuardia testified that in his experience, contingency factor amounts are fully spent over the course of a decommissioning project. ComEd Ex. 1 (LaGuardia Direct) at 23, Docket No. 99-0115. There is no expectation that excess amounts will remain that, according to Cook County's argument, could be refunded through an annual Rider 31 proceeding. Moreover, to the extent that excess funds remain, ComEd has committed that they will be refunded to ratepayers at the end of

decommissioning work. ComEd Ex. 8 (Berdelle Rebuttal) at 16-17. Thus, in the unlikely event that the contingency factor collections are not fully spent (and experience shows that will not occur), remaining amounts will be refunded to ratepayers. Cook County's contentions that contingency factor amounts should not be allowed should be rejected.

The Attorney General argues that ComEd should not be permitted to recover contingency factor amounts because ComEd's decommissioning cost proposal is already, in the Attorney General's opinion, "unrealistic" and "overly conservative." Attorney General Initial Brief at 22-23. The Attorney General argues ComEd's proposal already contains conservative assumptions concerning license renewal, life extension and the possibility of delayed decommissioning through the SAFSTOR method, and that, in light of these assumptions, the collection of additional amounts for contingent events should not be allowed. Id.

The Attorney General's contentions are also incorrect. As Mr. LaGuardia explained, contingency factor amounts reflect "only one type of risk -- the specific risk of increased costs resulting from conditions at the project site after the commencement of decommissioning work." ComEd Ex. 10 (LaGuardia Rebuttal) at 6. The use of contingency factor amounts to address this specific type of risk is a "commonly accepted aspect of cost engineering" that, as stated above, the Commission has specifically approved of with respect to the very TLG cost estimates at issue here. ComEd Ex. 10 (LaGuardia Rebuttal) at 5, 7. The factors discussed by the Attorney General involve unrelated risks and issues. The Attorney General may believe that these factors may reduce decommissioning costs. However, the Attorney General's contentions concerning those issues are simply not relevant to the appropriateness of contingency factor collections which, as stated above, the Commission has accepted as an appropriate method of addressing project specific risks in connection with decommissioning work.

In sum, the Commission has held that contingency factor amounts are properly included in ComEd's decommissioning cost estimates. There is no reason to depart from the Commission's prior holding on this issue.

### **VIII. Site Restoration**

As has been discussed in this proceeding, NRC regulations extend only to the removal of radiologically contaminated equipment and materials from a retired station. ComEd Ex. 13 (Thayer Rebuttal) at 3. In contrast, the Public Utilities Act defines decommissioning costs more broadly to include "dismantlement, removal and disposal of the structures", in addition to decontamination. 220 ILCS 5/8-508.1(a)(2). Non-radiological decommissioning involves the removal of remaining equipment and structures that did not become contaminated as a part of station operations. *Id.* Station buildings will be torn down as part of this process and then covered with topsoil. At the end of this work, the station site should look very much as it did prior to station construction.

As one Intervenor has correctly observed, ComEd has made a "compelling case in this proceeding that non-radiological decommissioning . . . will be necessary for each of its nuclear plants." ELPC Initial Brief at 4. The undisputed evidence in this docket shows that the radiological decommissioning process is highly destructive and that it will, in effect, render remaining station structures unusable. The TLG studies recognized that non-radiological decommissioning "will result in damage to many of the [station] structures" because of the "[b]lasting, coring, drilling [and] scarification" associated with the radiological decommissioning work. TSL-9, §1, at 4. As a result of this damage, TLG concluded that it is "unreasonable to anticipate that [site] structures would be repaired and preserved after the radiological



contamination is removed,” and that, as a result, “prompt dismantling of the site structures is clearly the most appropriate and cost effective option.” TSL-9, §1, at 4.

TLG's observations concerning the necessity of site restoration were consistent with the experience of ComEd witness Jay K. Thayer, the Vice President, Decommissioning, Duke Engineering and Services, Inc. Mr. Thayer has extensive experience in performing decommissioning work at the Yankee Rowe and Connecticut Yankee nuclear stations. He has observed the impact of radiological decommissioning, and testified that it “is a destructive process” that leaves “large holes . . . in the external walls of station buildings” and that “leaves [station] structures in poor condition from the standpoint of future usability, habitability and esthetics.” ComEd Ex. 13 (Thayer Rebuttal) at 4-5. Mr. Thayer testified that because of this damage, non-radiological decommissioning was planned at each of the projects he had worked on in order to eliminate the “hazardous conditions” that result from the radiological decommissioning process. ComEd 13 (Thayer Rebuttal) at 4.

In ComEd's 1999 decommissioning case, the Commission's Staff supported the recovery of non-radiological decommissioning expenses. Staff Initial Brief at 11. While it does not do so here for the (incorrect) reasons discussed below, it is useful to note that Staff agrees with much of ComEd's position regarding non-radiological decommissioning. For example, Staff does not claim that site restoration work will not be performed at ComEd's stations, or that the primary station structures will be re-used. Id. at 12. Rather, Staff's opposition to the recovery of these costs is based on the Commission's losing jurisdiction over the decommissioning trust funds after the transfer of the stations, and its belief that the Genco will delay site restoration work for an extended period. Id. at 11.

Simply put, Staff's reasons are not an appropriate basis for rejecting the recovery of non-radiological decommissioning expenses in this proceeding. With respect to the issue of the Commission's jurisdiction, Staff speculates that if ComEd is permitted to recover amounts relating to site restoration, the Genco will simply use them to satisfy NRC minimum funding requirements for radiological decommissioning. Staff Initial Brief at 12. Staff offered no evidence in support of this claim. However, even if this claim were correct, it would not be a reason for preventing the collection of site restoration costs. The evidence shows, and Staff apparently agrees, that non-radiological decommissioning will be performed and that the Genco will be required to bear the expense of this work. Speculation concerning whether the Genco will pay for this work out of the decommissioning trust fund or in some other manner is simply not relevant to the central issue, namely that this work will need to be performed. Staff's speculation concerning how the Genco will treat the funds it receives for this work simply is not an appropriate reason for denying the recovery of these amounts.

Staff's other claim that the Genco will delay site restoration for an extended period is also not an appropriate basis for denying the collection of site restoration expenses. This claim fails to take many of the factors regarding the cost and need to perform this work into consideration. TLG concluded that performing site restoration at the same time as radiological decommissioning work was the most "cost effective option," primarily because the same work force could be used to perform all of the work. TLG concluded:

The cost to dismantle site structures with a work force already mobilized on site is more efficient than if the process were deferred. Site facilities quickly degrade without continual maintenance, adding additional expense and creating potential hazards to the public as well as to future workers. Abandonment creates a breeding ground for biological hazards.

TSL-9, §1 at 4. Staff's claim that it would be in the Genco's best economic interest to delay site restoration is thus inconsistent with the conclusions reached by TLG, the leading experts in the area. In their opinion, delaying this work would not be cost effective.

The IIEC and the Attorney General also incorrectly argue that ComEd's commitment concerning site restoration work made in Mr. Berdelle's Rebuttal Testimony is evidence that this work will not be performed. IIEC Initial Brief at 25; Attorney General Initial Brief at 25 - 27. They point to the fact ComEd has committed to use funds in the decommissioning trust funds for site restoration "to the extent funds are available" after NRC required radiological decommissioning work. Far from showing that site restoration will not be performed, the commitment shows that ComEd will perform this work, subject only to the requirement of performing radiological decommissioning required by the NRC. The IIEC's and the Attorney General's criticisms of ComEd's commitment are without merit.

The IIEC further suggests that ComEd's commitment concerning site restoration may not be enforceable by stating that "a commitment made by a ComEd employee today" about the Genco's future obligations concerning site restoration is of "negligible value." IIEC Initial Brief at 25. Simply put, this mischaracterizes the nature of ComEd's commitment. ComEd has offered to incorporate this commitment as part of the trust agreements for the decommissioning trusts and, as such, has offered to make a legally binding commitment. ComEd Ex. 8 (Berdelle Rebuttal) at 16-17. The IIEC's characterization of the commitment is simply incorrect.

The Environmental Law & Policy Center ("ELPC") argues that the Commission should make ComEd's ability to collect additional decommissioning amounts contingent on a "guarantee" that non-radiological decommissioning will be performed. ELPC Initial Brief at 5. ComEd's commitment discussed above addresses this concern by providing that funds collected

as part of ComEd's proposal here will be used for non-radiological decommissioning, subject to the use of funds for NRC-required radiological decommissioning work.

The Attorney General in his Brief cites to the various reasons why IIEC witness Stephens did not believe that site restoration work would be performed. Attorney General Initial Brief at 24-25. However, as Mr. Stephens admitted on cross-examination, his work experience has never involved nuclear decommissioning, he has never testified concerning decommissioning issues and has never constructed a decommissioning cost estimate. Stephens, Tr. 673-75. In contrast, Mr. LaGuardia testified that site restoration costs would be incurred at ComEd's nuclear stations, primarily because there will be no use for the stations after the damage caused by radiological decommissioning work. ComEd Ex. 10 (LaGuardia Rebuttal) at 9. Mr. Thayer agreed with this assessment based on his own actual decommissioning experience. All of the competent testimony from individuals with actual decommissioning experience thus indicates that site restoration work will be necessary.

The Attorney General in his Brief also cites to portions of the TLG studies that refer to potential "alternative uses" for the stations after radiological decommissioning "which may or may not require the removal of existing structures." Attorney General Initial Brief at 26. However, the Attorney General fails to note that after the station specific TLG studies were performed, TLG performed a separate study concerning only site restoration in February, 1999. In that study, TLG concluded that ComEd has no plans for the re-use of station structures after radiological decommissioning, other than for the storage of spent fuel and for certain minimal uses accounted for in the report. TSL-9, at vii. Mr. LaGuardia also testified, as stated above, that based on his investigation, there are no alternative uses for the station sites that will eliminate the need for site restoration work. ComEd 10 (LaGuardia Rebuttal) p. 9.

The Attorney General also attempts to bolster his theory that there are alternative uses for the stations by citing Mr. Thayer's statement that he is aware of feasibility studies concerning such uses. Attorney General Initial Brief at 27. Surprisingly, the Attorney General does not cite to Mr. Thayer's testimony that these studies concluded that alternative uses were not feasible for economic and other reasons. ComEd Ex. 13 (Thayer Rebuttal) pp. 6 - 8.

Finally, several of the Intervenors note that the Commission had not permitted the recovery of site restoration costs in the past. IIEC Initial Brief at 23-24; Cook County Initial Brief, at 28-30. However, it is important to note that the Commission previously denied the recovery of these costs based on its finding that ComEd had not proven that station structures would not be re-used. See Order, ICC Docket No. 94-0065 (Jan. 9, 1995) at 58. The Commission has never held that site restoration costs are not recoverable as a matter of law, but only refused their recovery based on the record in a prior case.

In this docket, ComEd has presented the TLG site restoration study which specifically identifies the specific station structures that may be re-used. See TSL-9. This TLG study fully meets the burden discussed by the Commission in its prior order concerning the recovery of site restoration costs. Recovery of the costs should therefore be permitted here.

Cook County argues that the record in this case does not demonstrate that ComEd properly investigated the potential re-use of station structures in accordance with the Commission's prior order denying the recovery of these expenses. Cook County Initial Brief at 28-30. Simply put, this argument is incorrect. As the above discussion indicates, the record in this case thoroughly analyzes the impact that decommissioning will have on the stations, and whether the stations can be re-used after this damage occurs. This issue was discussed both by Mr. LaGuardia and in the TLG studies, including the TLG site restoration study that specifically

examined which station structures could possibly be re-used after radiological decommissioning was completed. This issue was also addressed by Mr. Thayer based on his own decommissioning experience, who also agreed that there would be no possible alternative use for the stations after the damage caused by radiological decommissioning. The record on this issue is complete, and Cook County's claim that ComEd has not adequately addressed this issue is simply not correct.

## **IX. Power Purchase Agreement**

### **A. Generally**

ComEd's Brief summarized the key terms of the Power Purchase Agreement ("PPA") under which the Exelon Genco will sell power and energy to ComEd. ComEd Initial Brief at 32-33. The basic structure of the contract is that from the date of transfer of the nuclear stations through December 31, 2004 (the "Initial Term"), Genco will serve all of ComEd's requirements. After the Initial Term, in 2005 and 2006, upon agreement between Genco and ComEd at then-prevailing market rates, Genco will serve ComEd's energy and capacity requirements up to the available capacity of the transferred nuclear units. ComEd Ex. 3 (McDonald Direct) at 5-6.

Staff points to the Commission's Order in Illinois Power Company, Docket No. 99-0578 (Order, November 23, 1999) as support for limiting decommissioning recovery to four years. Staff Brief at 15. However, analysis of the Commission's Order in Docket No. 99-0578 shows that ComEd's proposal for six-years' collections is consistent with and is fully supported by the Commission's Order in Docket No. 99-0578.

In Docket No. 99-0578, Illinois Power Company sought approval for recovery of payments for decommissioning funding obligations pursuant to the Clinton Power Station Asset Purchase Agreement between Illinois Power Company and AmerGen Energy Company. The

Clinton Power Station Asset Purchase Agreement provided for Illinois Power Company to make additional contributions to AmerGen's decommissioning trusts required over the five year period subsequent to transfer of the station. Illinois Power Co., Docket No. 99-0578, 1999 Ill. PUC LEXIS 929, \*10 (Order, November 23, 1999).

Consistent with the terms of its Asset Purchase Agreement with AmerGen, Illinois Power Company requested, and the Commission approved, Rider DE – Decommissioning Expense Adjustment (“Rider DE”) collections over the five year period following transfer of the Station, with such collections to stop immediately upon receipt of the total sum approved by the Commission. Id. at \*18-\*19. The five-year time period approved by the Commission in Docket No. 99-0578 thus was consistent with the statutory time period contained in Section 16-114.1, which permitted revision of Illinois Power Company's decommissioning rate “to a level that will recover [decommissioning amounts], over the time period specified in the agreement of sale...”. 220 ILCS 5/16-114.1(b), quoted in Illinois Power Co., 1999 Ill. PUC LEXIS 929, \*4.

ComEd's proposal in the present case involves payment of decommissioning costs over a six year period consistent with the ComEd/Exelon PPA. The six-year time period contemplated by the PPA is analogous to the five-year time period specified in the Illinois Power Company Asset Purchase Agreement, and approved by the Commission in Docket No. 99-0578. Accordingly, the Commission's Order in Docket No. 99-0578 supports approval of ComEd's proposed collections over the six-year period of the PPA, rather than the four year period asserted by Staff to be consistent with Docket No. 99-0578.

The record also shows that ComEd specifically addressed Staff's concern that ComEd collect decommissioning costs only during the time period that ComEd actually takes power under the PPA. ComEd's witness Mr. McDonald testified that ComEd's collection of

decommissioning funds would be expressly conditioned upon ComEd actually taking the described amounts of power from the Genco during 2005 and 2006. ComEd Ex. 3 (McDonald Direct) at 9. Simply put, if ComEd does not reach agreement with the Genco concerning a price for purchases under the PPA for 2005 and 2006, ComEd will collect no more decommissioning funds from customers during those years. Accordingly, ComEd's proposal to collect decommissioning costs through 2006 is supported by the record, is just and reasonable, and consistent with the decommissioning recovery policy implemented by the Commission in Illinois Power Company Docket No. 99-0578.

IIEC took no position concerning the Initial Term or service under the PPA during 2005 and 2006. IIEC Initial Brief at 26. The Attorney General and Coalition raised no issue concerning the Initial Term of the PPA running through the end of 2004. With respect to the years 2005 and 2006, the Coalition complains that the PPA does not give customers third party beneficiary rights. Coalition Initial Brief at 13-14. Both the Coalition and the Attorney General assert that the PPA does not ensure that ComEd customers will pay a reasonable price for electricity under the PPA during the years 2005 and 2006. These arguments lack merit for the following reasons.

First, the PPA is a wholesale power contract under which Genco will provide electricity to ComEd for re-sale to ComEd's retail customers. Retail customers by definition are not parties to a wholesale contract. There is no legal reason, and the Coalition offers none, why retail customers would be named as third party beneficiaries in such a contract.

Moreover, prices negotiated under the contract for 2005 and 2006 will be subject to review and consideration by the FERC and the Commission before ComEd's rates can be changed to reflect those prices after the end of the rate-freeze period on January 1, 2005. Any



concerns that the Coalition and Attorney General has with respect to recovery of prices paid under the PPA for the years 2005 and 2006 should be considered in setting such future rates.

**B. Timing Of Collections By ComEd And Distributions To Genco/Trust**

ComEd's Brief describes the timing of collections by ComEd and distributions to the Genco/Trust. ComEd Initial Brief at 34-35. IIEC stated in its brief that it took no position on this issue, IIEC Initial Brief at 26, and no other parties' briefs commented on this subject. For the reasons stated in ComEd's brief and demonstrated in the record, ComEd's proposal concerning timing of collections and distributions to the Genco/Trust are just and reasonable and should be approved by the Commission.

**X. Spent Fuel Costs And Department Of Energy Issues**

Certain Intervenor argued that permitting Genco to keep DOE spent fuel storage damage recoveries would result in a windfall to Genco. ComEd's Initial Brief demonstrated that, because ratepayers have not paid spent fuel storage costs that were disallowed by the Commission, potential recoveries of those costs from the DOE are irrelevant to an assessment of ComEd's proposal. ComEd Initial Brief at 35-36.

Most of the Intervenor apparently agree and say nothing about the treatment of spent fuel storage costs. However, Cook County argues that the cost of wet storage at Zion Station was included in the TLG cost estimates for that station, and the Commission should not allow the costs of such storage to be recovered from ratepayers. Cook County Initial Brief at 34-35. Cook County also contends that recovery of additional spent fuel storage costs at Zion Station is premature because those costs may be recovered from the DOE. *Id.* at 35.

There is no justification for reducing ComEd's six-year \$120.9333 million annual decommissioning cost recoveries based on Cook County's arguments about Zion wet storage

costs. The evidence in the record establishes that inclusion of the Zion wet storage costs that might have been avoided if the DOE had performed its obligations did not increase the annual amount of decommissioning recoveries requested by ComEd. ComEd Ex. 8 (Berdelle Rebuttal) at 13. In fact, it reduced the amount requested by \$.9 million. *Id.* Staff initially estimated that inclusion of the Zion spent fuel storage costs had increased the annual recovery request by \$1.9 million, but, after reviewing the workpapers describing the calculations, “concludes that the company is correct.” Staff Initial Brief at 16. Cook County’s position that ComEd’s \$120.9333 million annual decommissioning recoveries should be decreased to take into account Zion spent fuel storage costs is wrong and should be rejected by the Commission.

## **XI. Trust Accounts**

ComEd’s Initial Brief described ComEd’s decommissioning trust accounts, how all of the assets contained in the trusts will be transferred to the Genco upon transfer of the plants, and how the NRC through its regulations will monitor the decommissioning trusts to ensure that sufficient funds are provided to radiologically decommission the nuclear stations after they are retired. ComEd Initial Brief at 36-39. Earlier in this reply brief, ComEd also explained in response to arguments made by IIEC and CUB that (i) under Illinois law it is correct for all of the assets in the trusts to be transferred at the same time as the nuclear stations; and that (ii) because the trusts contain \$3.1 billion less than the expected costs of decommissioning, no refunds are due to customers upon the transfer.

There are no new issues raised in the briefs of Staff and Intervenors concerning the trust accounts. Staff does not oppose transfer of assets in the trusts, finds that it is very improbable that any excess funds will remain in the trusts years from now when all of the decommissioning work is done, and comments that ComEd’s clear commitment to refund any surplus in the event

one occurs allays any concerns of a Genco "windfall" arising from the trust funds. Staff Brief at 17. The IIEC however, re-briefs in this proceeding the same legal claims which were rejected by the Commission's Order in the Genco transfer proceeding, ICC Docket Nos. 00-0369 & 00-0394 (Consolidated) (August 17, 2000).

As the Commission found in its Order in Docket Nos. 00-0369 & 00-0394 (Consolidated):

In determining whether the transfer of ComEd's nuclear decommissioning trust funds should be approved in this proceeding, the first issue to be resolved is whether such funds are assets of ComEd. The Commission concludes that the nuclear decommissioning trust funds are assets of ComEd.... The trust agreements also support the conclusion that the decommissioning trust funds are assets of ComEd, rather than the assets of the Trustees. The Trustees do not have the ability to dispose of the trust funds as they see fit....

... [T]he Commission concludes that the transfer of the nuclear decommissioning trust funds should be approved in this proceeding. Issues related to ComEd's recovery of decommissioning costs from ratepayers are being addressed in Docket 00-0361 and other Rider 31 proceedings.

Commonwealth Edison Co., ICC Docket Nos. 00-0369 & 00-0394, 2000 Ill. PUC LEXIS 667, \*53-55, (Order, Aug. 17, 2000). Accordingly, the IIEC's claims at pages 27-33 of its brief that the decommissioning trusts are not utility property, cannot be transferred by ComEd, and that the trustee cannot permit a transfer of the trust assets should be rejected.

## **XII. Other**

### **A. Bid Auction And Allocation Schemes**

Edward Bodmer, on behalf of the Coalition, claimed that a "bid auction" should be held for ComEd decommissioning liabilities and fund assets. Coalition Ex. 1.0 (Bodmer Direct) at 10-11. ComEd's Initial Brief demonstrated that Mr. Bodmer's "bid auction" scheme is

unrealistic for many reasons, would violate federal income tax regulations governing tax-qualified trusts, and could not be implemented under applicable NRC regulations. ComEd Initial Brief at 39-42. The Coalition apparently agrees that the bid auction scheme was ill-considered and makes no mention of it in its brief. The Commission should reject the idea as well.

Although ComEd's Initial Brief also showed that Mr. Bodmer's decommissioning allocation scheme was without merit, the Coalition nonetheless continues to advocate it despite its flaws. The Coalition's position should be rejected because, as discussed in Section I B 2 of this Reply Brief, the Public Utilities Act does not provide for the "percentage of total life" allocation of decommissioning costs that Mr. Bodmer suggests. Moreover, the premise of Mr. Bodmer's argument -- that Genco is being allocated an insignificant portion of the decommissioning costs and risks -- is simply incorrect. As ComEd's Initial Brief demonstrated, Mr. Bodmer's assertion that his analysis includes "all of the dollar amounts that will have to be outlayed by ... Genco" is plainly wrong. ComEd Initial Brief at 41. The evidence shows that increased decommissioning costs not reflected on Mr. Bodmer's tables could be enormous as a result of escalation in the cost of low level waste burial, unreimbursed spent fuel storage costs, expanded scope of decommissioning work and other matters. ComEd Ex. 4 (Speck Direct) at 8-18; ComEd Ex. 12 (Speck Rebuttal) at 18-36.

Because Mr. Bodmer's "percentage of total life" allocation scheme is not in accordance with the Public Utilities Act and because ComEd's proposal allocates an enormous share of the costs of decommissioning to Genco, Mr. Bodmer's allocation scheme should be rejected.

#### **B. Estimates Of Genco Profits**

ComEd's Initial Brief responded to the arguments made by several Intervenors that ComEd's recovery of decommissioning costs should be reduced because Genco will be a

profitable company that can afford to contribute more toward the costs of decommissioning. As ComEd demonstrated, the contention that the appropriate level of decommissioning contributions from ratepayers turns on speculation about the profitability of the acquirer of the nuclear units is wrong as a matter of law. Nothing in the Public Utilities Act supports Intervenor's position. Their approach would discourage the most qualified acquirers from engaging in acquisitions of nuclear stations and would encourage transfers to companies in weak financial condition who would not be subject to discrimination based on profitability.

Nonetheless, Intervenor's continue to advocate their view that ComEd's decommissioning recoveries should turn on estimates of Genco's profitability. As ComEd's Initial Brief explained, even if Genco's profits were relevant, Intervenor's arguments are without foundation because they are based on flawed estimates prepared by Messrs. Bodmer and Stephens. Coalition Ex. 1 (Bodmer Direct) at 36-37; IIEC Ex. 1 (Stephens Direct) at 14.

Mr. Bodmer admitted that his projection was not even close, conceding that, after correcting his errors, his original \$1 billion estimate of Genco profits should have been \$167 million. Bodmer, Tr. 1484, line 15. Similarly, Mr. Stephens admitted that his calculations ignored many substantial expense items, such as 100% of general and administrative costs for the Genco, interest on debt, about \$80 million of pension and post-retirement benefit costs, and \$18 million of real estate taxes. Stephens, Tr. 696-713. Mr. Stephens overstated Genco's gross revenues, selecting a capacity factor of

Mr. Stephens also inflated Genco's revenues by assuming that the output of the nuclear units Genco acquired from ComEd would have a value of . Stephens, Tr.

Mr. Stephens admitted on the stand that his use of “production” costs when attempting to estimate Genco’s profits disregarded huge categories of expenses that Genco will incur. For example, he included nothing for the cost of the employees who manage Genco’s business, from the Chief Nuclear Officer to the other executives and staff at the nuclear generation group’s headquarters. His only explanation for this omission was: “I considered whether or not to include administrative and general expenses and decided it wasn’t necessary.” Stephens, Tr. 698. Mr. Stephens also significantly underestimated real estate taxes, and omitted pension and financing costs completely. *Id.* at 705-13. Inclusion of such basic expenses is clearly necessary when estimating profits of a company that will have to incur those expenses. The efforts of IIEC and the Coalition to have Genco’s profitability evaluated by looking only at “production” expenses and disregarding all of the other expenses that Genco will incur must be rejected.

Finally, the Coalition incorrectly suggests that ComEd projects a  
for the ComEd nuclear stations transferred to Genco. Coalition Initial Brief at 29. In

support of this contention, the Coalition cites a

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### **XIII. Conclusion**


ComEd's proposal to limit further decommissioning collections from customers to \$120.9333 million for six years should be approved by the Commission. Approval of the proposal will provide certainty for ratepayers, free them from the obligation to make decommissioning payments that are scheduled to continue from 2007 through 2027, and eliminate the significant risk that customers will be required to pay substantially increased costs in the future. Approval will also enable Genco to acquire ComEd's nuclear stations, thus separating ComEd's nuclear generation assets from the company's transmission and distribution business, insulating ratepayers from many of the risks of the generation business and providing them with the benefits of a competitive generation marketplace in ComEd's service territory.

For these reasons, ComEd respectfully requests that the Commission enter an order approving ComEd's Special Decommissioning Rider.

October 6, 2000

Respectfully submitted,

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**ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY

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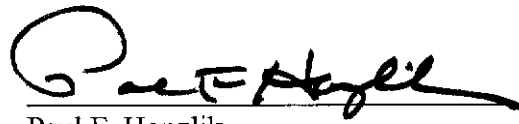
Petition for Approval of a Revision to  
Decommissioning Expense Adjustment Rider to  
Take Effect on Transfer of ComEd's Generating  
Stations

**NOTICE OF FILING**

TO: Attached List

PLEASE TAKE NOTICE that on this date we have filed with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, the Reply Brief of Commonwealth Edison Company (redacted version).

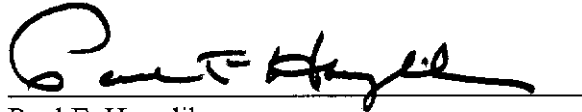
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**CERTIFICATE OF SERVICE**

I, Paul F. Hanzlik, do hereby certify that a copy of the Reply Brief of Commonwealth Edison Company (redacted version) was served upon all parties on the attached list by the method indicated on the attached Service List.

A handwritten signature in black ink, appearing to read "Paul F. Hanzlik", written over a horizontal line.

Paul F. Hanzlik

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